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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION

Initial reports of States parties due in 1995

Addendum

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

[27 May 1998]

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I. BACKGROUND INFORMATION

Introduction

1. In accordance with the principles set forth in the Charter of the United Nations related to the right of all nations to self-determination, also acknowledged in the Covenant on Civil and Political Rights, the citizens of the Republic of Macedonia* confirmed their will to live in a sovereign and independent state at the referendum held on 8 September 1991. The positive referendum results formed the basis for the adoption of the declaration of 19 December 1991 for international recognition of the Republic of Macedonia as a sovereign and independent State by the Assembly of the Republic of Macedonia.

2. The Republic of Macedonia is the only country which was part of the former Yugoslavia and succeeded in gaining its independence and sovereignty peacefully. In its application for membership in the United Nations dated 30 July 1992, as well as in the declaration of acceptance of the obligations contained in the Charter, the President of the Republic of Macedonia declared that the Republic of Macedonia accepted all obligations contained in the Charter and that it fully agreed to fulfil them. Furthermore, he also declared that the Republic of Macedonia, as an independent and sovereign State, would strive towards full observance of the generally accepted principles of international relations, contained in United Nations documents, in the OSCE Helsinki Final Document and in the Paris Charter.

3. The new Constitution of the Republic of Macedonia was adopted by the Assembly of the Republic of Macedonia on 17 November 1991. In article 1 of the Constitution, the Republic of Macedonia is defined as a sovereign, independent, democratic and social State.

4. In the declaration for international recognition of the Republic of Macedonia, the Assembly committed itself to fully undertake the obligations of the former Socialist Federal Republic of Yugoslavia, and accepted the role of the Republic of Macedonia as a successor country.

5. In accordance with the above proclaimed commitments, the Republic of Macedonia, by way of succession, took over a number of international agreements and accords the signatory party to which was the former Yugoslav federation. Consequently, the Republic of Macedonia, as a successor State, on 12 December 1994 acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

6. With the accession to the Convention by succession, the Republic of Macedonia took over the declarations with regard to articles 21 and 22 of the Convention. By these declarations the Republic of Macedonia recognizes the competence of the Committee against Torture to receive and consider

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* The designations employed in this report do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations regarding the legal status of any country or territory or of its authorities or concerning the delimitation of its frontiers or boundaries.

communications to the effect that a State party claims that another State party is not fulfilling its obligations under this Convention, as well as communications from and on behalf of individuals who claim to be victims of torture by a State party to the Convention.

Constitutional and legal framework

7. The Republic of Macedonia belongs to the group of countries in which the principles of continental law are applied. The basic sources of the law in the Republic of Macedonia are the Constitution, laws and international agreements ratified by the Assembly of the Republic of Macedonia, which are not contrary to the Constitution. The basic principles of this system are constitutionality and legality: this means practically that all legislation adopted within the legal system of the Republic of Macedonia must be harmonized with the immediate higher legal act - the Constitution of the Republic of Macedonia.

8. Judicial practice (which is established through the principled positions and legal opinions of the Supreme Court, as well as through the decisions of the lower courts) is the subsidiary source of law.

9. As stated earlier, in addition to the Constitution and legislation, international agreements are another source of law. According to article 118 of the Constitution of the Republic of Macedonia, international agreements, ratified in accordance with the Constitution, are part of the internal legal order of the Republic of Macedonia and cannot be changed by law. From the judiciary aspect, this constitutional provision is directly confirmed in article 98 of the Constitution, according to which courts in the Republic of Macedonia judge on the basis of the Constitution, and laws and international agreements ratified in accordance with the Constitution. In practice, this means that in the adoption of any court decision, courts are free to directly apply (without the previous adoption of separate, additional laws or by-laws) the provisions of any international convention, which has been previously ratified by the Assembly of the Republic of Macedonia. In this context, taking into account that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, by way of succession, (as related to the international obligation of the former Yugoslav federation) was taken over as applicable on the territory of the independent and sovereign Republic of Macedonia, it was fully incorporated in the State's legal system, and as regards the Convention's legal character it is directly applicable as a source of law, being equalized with the other sources of law in the integral legal order of the State.

Competent organs

10. In the Republic of Macedonia, according to the division of the powers (legislative, executive and judiciary), courts exercise the judiciary power. Since 1996, in the Republic of Macedonia there has been one form of organization of the judiciary: there are first-instance and appellate courts, as well as the Supreme Court of the Republic of Macedonia. These courts are competent for the adoption of decisions to conduct an investigation and to decide upon the liability of persons who are reasonably believed to have committed a crime.

11. In the organizational system of the Public Prosecutor's Office there are the first instance and higher instance Public Prosecutor's Offices, as well as the Public Prosecutor's Office of the Republic of Macedonia. The Public Prosecutor's Office of the Republic of Macedonia is a single and autonomous State body carrying out legal measures against persons who have committed criminal and other offences determined by law; it also performs other duties determined by law.

12. Courts are responsible for the execution of legally valid and executive court decisions, while in connection with the organizational aspect (employment of staff, adoption of by-laws, providing premises and other facilities) the Ministry of Justice provides the conditions for their execution. The Ministry of Justice is also responsible for and supervises the work of penal and correctional institutions.

13. The Ministry of Internal Affairs is responsible for undertaking measures for securing the presence of accused persons, upon the request by the competent organ (apprehension, detention), as well as for conducting certain investigative activities.

14. Within the Ministry of Justice, there is a directorate for execution of sanctions, which supervises the execution of sanctions in penal and correctional institutions. Furthermore, the Government of the Republic of Macedonia has established a State commission for supervision of penal and correctional institutions, composed of five members from the ranks of judges, penological, welfare and educational professionals, as well as from the ranks of experts at the Ministry of Justice, the Ministry of Health, the Ministry of Labour and Social Policy, the Ministry of the Economy and of other scientists and experts from other institutions, for a five-year term. The State commission's task is to make occasional visits to institutions and to establish the situation with regard to the application of the law and of other regulations and rules on the execution of sanctions, then to establish the situation in connection with the treatment of convicted persons, the conditions under which they live and work, and to conduct surveys on the position and rights of convicted persons. The directors of such institutions are obliged to facilitate interviews with convicted persons, without the presence of the institution's officials.

15. Taking into consideration that the Republic of Macedonia is a State party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Committee for the Prevention of Torture, in accordance with the provisions of the said Convention, may freely supervise its implementation in the Republic of Macedonia.

Legal remedies

16. In article 50 of the Constitution, it is stated that every citizen may invoke the protection of freedoms and rights determined by the Constitution before the regular courts, as well as before the Constitutional Court of the Republic of Macedonia, through a procedure based upon the principles of priority and urgency. Judicial protection of the legality of individual acts of the State administration, as well as of other institutions carrying out public mandates is also guaranteed.

17. In the Republic of Macedonia, the application of the principle of two-instance court proceedings is guaranteed. In practice, this means that all first-instance verdicts, against which an appeal has been lodged, may be revised by the immediately higher court. In certain cases third instance court proceedings have been envisaged. Namely, when criminal proceedings have been instituted for a crime for which life imprisonment has been prescribed, the Criminal Procedure Code envisages the possibility of lodging an appeal against the second-instance decision. The appeal against the second-instance verdict has a suspending and devolutive character (it delays the legal validity and the execution of the first-instance verdict) and is decided upon by the Supreme Court.

18. The institution of Ombudsman, according to the constitutional definition, is a body that protects the constitutional and legal rights of citizens from acts of the State administration organs or from other organs or organizations that carry out public mandates. Furthermore, the institution of Ombudsman is independent and autonomous in the performance of the duties.

19. In practice, the role of this institution consists of the right of the National Ombudsman to apply to the other State organs and institutions which with their acts have violated the human rights and freedoms guaranteed by the Constitution of the Republic of Macedonia and by other legislation adopted in accordance with, or on the basis of the Constitution of the Republic of Macedonia.

20. In article 10 of the Law on the National Ombudsman, it is envisaged that while performing his/her duties the National Ombudsman shall be authorized to undertake actions for which he/she is authorized under this law in order to protect the constitutional and legal rights of citizens when violated by the organs and organizations. If the National Ombudsman ascertains that the constitutional and legal rights of the citizens have been violated, he/she may: suggest that the organ or organization carry out again the proceedings in question, in accordance with the law; submit a request to the organ in charge for commencement of administrative action before the Supreme Court; submit a request to the organ or organization for temporary stay of execution; suggest initiation of a disciplinary action against an official of the organ and the organization; submit a request to the competent public prosecutor for initiating legal proceedings for establishment of a violation or criminal responsibility, and give suggestions to organs and organizations for the improvement of their work with individuals (article 22 of the Law on the National Ombudsman).

21. The most direct protection from violation of human rights through unconstitutional acts by the State organs competent for the execution of laws, has been secured through the institute of individual petition to the Constitutional Court of the Republic of Macedonia, which has also been envisaged in the Constitution of the Republic of Macedonia. Namely, all citizens have the right to individual petition to the Constitutional Court of the Republic of Macedonia when they consider that their rights contained in article 110 of the Constitution have been violated. According to article 110, subparagraph 2, of the Constitution, the Constitutional Court protects freedoms and rights of the person and citizen relating to the freedom of communication, conscience, thought and public expression of thought, political

association, as well as to the prohibition of discrimination among citizens on the grounds of sex, race, religion, or national, social or political affiliation. The citizen may request protection from the Constitutional Court within two months from the day of delivery of the final or legally valid individual act, or from the day the person has learned that proceedings, which amount to violation, have been instituted, but no later than five years from the day such proceedings have been instituted.

22. If the Constitutional Court, after undertaking the appropriate proceedings, decides that the disputed act violates some of the basic human rights and freedoms set forth in the Constitution, then in the same decision it will invalidate the disputed act and institute return to the previous condition. When this is not possible, material satisfaction is ordered.

International conventions ratified

23. The following are the international conventions for human rights ratified by the Government of the Republic of Macedonia:

(a) International Covenant on Civil and Political Rights;

(b) Convention on the Prevention and Punishment of the Crime of Genocide;

(c) Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity;

(d) International Convention on the Suppression and Punishment of the Crime of Apartheid;

(e) Slavery Convention;

(f) Supplementary Convention on the Abolishment of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery;

(g) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others;

(h) Protocol relating to Certain Cases of Statelessness;

(i) Convention relating to the Status of Refugees;

(j) Convention relating to the Status of Stateless Persons;

(k) Protocol relating to the Status of Refugees;

(l) Convention on the Political Rights of Women;

(m) Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages;

(n) International Convention on the Elimination of All Forms of Racial Discrimination;

(o) Convention on the Elimination of All Forms of Discrimination Against Women;

(p) Convention against Discrimination in Education;

(q) Discrimination (Employment and Occupation) Convention;

(r) International Covenant on Economic, Social and Cultural Rights;

(s) International Convention for the Suppression of the Traffic in Women and Children;

(t) Convention on the Rights of the Child;

(u) Optional Protocol to the International Covenant on Civil and Political Rights;

(v) Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

(w) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(x) Convention for the Protection of Human Rights and Fundamental Freedoms;

(y) Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms;

(z) Protocol No. 2 to the Convention for the Protection of Human Rights and Fundamental Freedoms, conferring upon the European Court of Human Rights competence to give advisory opinions;

(aa) Protocol No. 3 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending articles 29, 30 and 34 of the Convention;

(bb) Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those included in the Convention and in Protocol No. 1;

(cc) Protocol No. 5 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending articles 22 and 40 of the Convention;

(dd) Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms Concerning the Abolition of the Death Penalty;

(ee) Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms;

(ff) Protocol No. 8 to the Convention for the Protection of Human Rights and Fundamental Freedoms;

(gg) European Charter of Local Self-government;

(hh) European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

(ii) Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

(jj) Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

(kk) Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Restructuring the Control Machinery Established Thereby;

(ll) Framework Convention for the Protection of National Minorities.

II. IMPLEMENTATION OF THE PROVISIONS OF THE CONVENTION IN THE LAWS AND PRACTICE OF THE REPUBLIC OF MACEDONIA

Article 2

24. This provision of the Convention has been fully incorporated in the existing legislation of the Republic of Macedonia. The measures that the Republic of Macedonia undertakes in the field of legislation aimed at the prevention of acts of torture can be considered at several levels.

Constitutional level

25. According to article 11 of the Constitution of the Republic of Macedonia "the human right to physical and moral dignity is irrevocable. Any form of torture, or inhuman or humiliating conduct or punishment is prohibited." Article 11 also prohibits forced labour. According to the text of this constitutional provision, torture is completely prohibited on the territory of the Republic of Macedonia, and any act in this regard is proclaimed as unconstitutional.

26. Article 50 of the Constitution prescribes that every citizen may invoke the protection of freedoms and rights determined by the Constitution before the regular courts, as well as before the Constitutional Court of the Republic of Macedonia, through a procedure based upon the principles of priority and urgency. Judicial protection of the legality of individual acts of State administration, as well as of other institutions carrying out public mandates is also guaranteed.

27. According to article 54 the freedoms and rights of the individual and citizen can be restricted during states of war or emergency, in accordance with the provisions of the Constitution. The restriction of the freedoms and rights cannot be based on grounds of sex, race, colour of skin, language, religion, national or social origin, property or social status.

28. The restriction of freedoms and rights cannot be applied to the right to life, the interdiction of torture, inhuman and humiliating conduct and

punishment, the legal determination of punishable offences and sentences, as well as to the freedom of personal conviction, conscience, thought and religious confession.

29. In the Republic of Macedonia, liability of perpetrators of criminal offences is determined through a combined application of the territorial and personal principle (more detailed elaboration of these two principles can be found in the part on the implementation of article 5).

30. The constitutional provisions for protection of the right to physical and moral integrity of the person are further elaborated in laws such as the Criminal Code of the Republic of Macedonia, the Criminal Procedure Code, the Law on Execution of Criminal Sanctions, as well as in other by-laws of the Ministry of Justice and the Ministry of Internal Affairs.

31. In accordance with the principle of constitutionality and legality, all general and individual acts adopted in the Republic of Macedonia must be in conformity with the Constitution. If there are suspicions that a certain act runs contrary to the Constitution, all citizens of the Republic of Macedonia are guaranteed the right to institute a procedure for the assessment of the constitutionality and legality of the concerned act before the Constitutional Court. The Constitutional Court may invalidate any act that it shall determine not to be in conformity with the Constitution of the Republic of Macedonia.

Substantive law level

32. Article 142 of the Criminal Code of the Republic of Macedonia prescribes that "an official person who while performing his duty, applies force, threat or some other unallowed facility or unallowed manner, with the intention of extorting a confession or some other statement from the accused, the witness or expert witness or from some other person shall be punished with imprisonment of three months to five years". Paragraph 2 of the same article contains the qualified form of the above-mentioned criminal offence which prescribes that "if the extortion of the confession or statement was followed with severe violence or if because of the extorted confession or statement especially severe consequences set in for the accused in the criminal procedure, the offender will be punished with imprisonment of at least one year".

33. The Criminal Code of the Republic of Macedonia envisages that "the punishment of imprisonment may not be shorter than 30 days, nor longer than 15 years". If a punishment of 15 years is prescribed for a premeditated crime, a punishment of life imprisonment may be prescribed for severe forms of this crime. The punishment of life imprisonment may not be prescribed as the only punishment. The punishment of life imprisonment may not be pronounced for an offender who at the time the crime has been committed has not attained the age of 21. Imprisonment is served in prison, semi-open or open institutions for serving a sentence.

Procedural law level

34. In the Republic of Macedonia, liability of perpetrators of criminal offences is determined through a combined application of the territorial and personal principles.

35. Within the Macedonian criminal procedure legislation, the measure of detention has been prescribed as one of the measures for securing the presence of the accused and for the successful conduct of criminal proceedings. In article 183 of the Criminal Procedure Code of the Republic of Macedonia it is envisaged that pre-trial detention may be determined only under conditions prescribed in this Code. The length of pre-trial detention must be set as the shortest necessary time. It is the duty of all agencies participating in the criminal procedure and agencies which contribute with judicial assistance to act in the most urgent manner if the accused is in pre-trial detention. During the procedure the pre-trial detention will be withdrawn, as soon as the reasons upon which it has been determined cease to exist.

36. According to the provisions of the Criminal Procedure Code, the personality and dignity of the person must not be violated when the person is in detention. Only limitations necessary to prevent escape may be applied against the detained person. Persons of different sexes may not be imprisoned in the same room. As a rule, persons who have participated in the perpetration of the same crime may not be placed in the same room. Furthermore, persons who are serving a sentence may not be placed in the same room with detained persons. If it is possible, persons who have committed a crime again shall not be placed in the same room with other persons deprived of their freedom on whom they could have harmful influence. The detained person has the right to request to serve the detention in a separate room.

37. According to article 177 of the Criminal Procedure Code, an order for the accused to be apprehended may be issued by the court if a decision for a pre-trial detention or detention due to trial has been adopted and if the summoned does not come and explain his absence or if the delivery of the court summons could not have been completed and according to the circumstances it can be concluded that the accused is avoiding the court summons. The order for apprehension is issued in writing and the Ministry of Internal Affairs executes it. The person entrusted with the order hands it to the accused and asks him to follow. If the accused refuses it, he will be apprehended forcefully.

Execution of sanctions

38. According to the Law on Execution of Sanctions, sanctions prescribed for criminal and minor offences, the execution of which is regulated in this law only are: sentences, security measures and educational measures. According to article 6 of the said law "persons against whom sanctions are executed are treated humanely, by respecting their personality and dignity, then by preserving their physical and mental health, at the same time taking due account that the sanction in question is executed". In the execution of the prison sentence the psychological, physical and moral integrity of convicted

persons must be protected. Any form of torture, inhuman, or degrading treatment or punishment is prohibited. The right to security of the person and to self-respect must be provided for the convicted persons.

39. According to article 184 of the Law on Execution of Sanctions, coercive methods and devices may be applied against the convicted persons only to the extent and when they are necessary to prevent the person's escape when being apprehended, or to prevent physical assaults, injury, self-inflicted injuries, material damage and to subdue the resistance of convicted persons when a legal order issued by an official is being executed. Coercive methods and devices that may be applied are: separation, tying, rubber truncheon, water-cannons and chemical substances.

40. Article 186 of the Law on Execution of Sanctions prescribes the conditions under which a security officer in performing official duties may use firearms, when other methods cannot be applied. Those conditions are the following: to protect human life; to countervail an immediate attack endangering his life; to countervail an attack against the premises that the officer is securing; to prevent the escape of the convicted person from closed-type institutions, or from a closed ward, and to prevent escape in the course of escorting a person convicted for a criminal offence for which 15 years' imprisonment or a heavier sentence has been prescribed.

41. The security officer may use firearms only when the use of other coercive methods and devices do not allow him to carry out his official duties.

42. When official duties are carried out under the direct management of the director of the institution or of the officer that manages the security service, the security officer may use firearms only upon their orders. The order for use of firearms may be issued only when the conditions contained in paragraphs 1 and 2 have been fulfilled.

43. In using firearms, the security officer is obligated to act with due diligence in order not to endanger the life of other persons.

Government measures

44. In the administrative sphere, the following measures prevent acts of torture: pursuant to article 79 of the Law on Execution of Criminal Sanctions, the Government of the Republic of Macedonia has established a State commission for supervision of penal and correctional institutions. It is composed of five members from the ranks of judges, penological experts, social workers, educators, as well as from the ranks of experts of the Ministry of Justice, the Ministry of Health, the Ministry of Labour and Social Policy, the Ministry of the Economy, and from the ranks of experts of other scientific institutions, appointed for a five-year term. The task of the State commission is to make occasional visits to the penal and correctional institutions in order to establish the situation as related to the application of laws, other regulations and rules for execution of sanctions, then to adopt conclusions about the treatment of convicted persons, then about the conditions in which they live and work and to make surveys on the position

and rights of convicted persons. The director of the institution is obliged to facilitate interviews with convicted persons without the presence of the institution's officials.

Special type of responsibility held by State administration employees

45. The Law on Internal Affairs (art. 65, subpara. 11), which contains a list of the forms of disciplinary offences, also prescribes the following as a violation of work discipline: "the perpetration of an act that is qualified as a criminal offence, which according to the Law on Internal Affairs is an obstacle to employment at the Ministry, or the performance of any other act qualified as a serious violation of public peace and order". The employee may be temporarily suspended from work at the Ministry, in the case of serious disciplinary offences. Serious disciplinary offences constitute grounds for suspension. The length of the suspension, as well as the cases when it is not implemented, are regulated through an act issued by the Minister.

Abolition of the death penalty

46. In article 10 of the Constitution it is stated that the human right to life is irrevocable. The death penalty shall not be imposed on any grounds whatsoever in the Republic of Macedonia. After the adoption of the 1991 Constitution, the abolition of the death penalty has been fully implemented in all laws that further regulate this issue. In this context, we point to the fact that when, from the formal and legal point of view the death penalty was in force in the Macedonian criminal law system, its application was very limited. The last time when this type of sanction was executed in the Republic of Macedonia was in July 1988.

47. In this regard, the Republic of Macedonia acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights on 26 January 1995. The Republic of Macedonia ratified the European Convention for the Prevention of Torture and acceded to its two additional Protocols on 14 May 1997, coming into force for the Republic of Macedonia on 1 February 1998. On 27 February 1997 the Republic of Macedonia ratified the European Convention on Human Rights, including its Sixth Protocol.

48. In connection with the preventive measures that courts are obliged to undertake, we point to the provisions contained in the Law on Execution of Sanctions (article 75, relating to the serving of prison sentences) according to which courts review the execution of sanctions, for the purpose of which a judge is appointed from the first-instance court, under the jurisdiction of which is the concerned institution.

49. In connection with responsibility contained in paragraph 3 of this provision, the prohibition of torture, inhuman and degrading treatment or punishment is of an absolute character, thus an order from a superior officer may not be invoked as a justification for violation of this prohibition. In this context, in article 6 of the Law on Internal Affairs it is prescribed that an officer of the Ministry is obliged to execute the orders of the Minister or of an official authorized by the Minister, which orders relate to the performance of the functions of this Ministry, except in cases when the execution of the order would amount to a criminal offence. The same provision

is contained in the rules for the performance of guard duties in penal and correctional institutions. According to the Law on Defense, orders from the superior officer at the Army shall not be carried out if this would constitute a criminal offence.

50. The Criminal Code envisages that a subordinate shall not be punished if he commits a crime on orders from his superior, while that order concerned the official duty, except if the order was directed towards committing a war crime or some other serious crime, or if he knew the execution of the order represented a crime.

51. In this field, in addition to the Constitution and the laws, several by-laws have been adopted which further elaborate this issue: rules on expert training and further education of the officers of the Ministry of Internal Affairs, the book of rules for performance of the duties of the Public Security Service, instructions for use of firearms, rubber truncheons and other coercive methods and devices by authorized officers of the State administration organs responsible for the internal affairs and the rules on the performance of the guard duties at penal and correctional institutions.

Article 3

52. Before we present the direct implementation of this article in the legislation and practice of the Republic of Macedonia, we will present the part of the legislation referring to extradition.

53. Foreign subjects in the Republic of Macedonia enjoy freedoms and rights guaranteed by the Constitution in the Republic of Macedonia under conditions regulated by law and international agreement. The Republic guarantees the right to asylum to foreign subjects and stateless persons expelled because of democratic political convictions and activities. Extradition of a foreign subject can be carried out only on the basis of a ratified international agreement and on the principle of reciprocity. A foreign subject cannot be extradited for a political criminal offence. Acts of terrorism are not regarded as political criminal offences (article 29 of the Constitution of the Republic of Macedonia).

54. The provisions contained in articles 509 to 526 of the Criminal Procedure Code regulate the procedure for extradition of accused and convicted persons, and they also envisage the solutions both for the legal preconditions for extradition and for the extradition procedure, as well as for the request for extradition of accused or convicted persons. The provisions of the Criminal Procedure Code related to extradition are applied on a subsidiary basis, i.e., they are applied only in cases when no bilateral agreement has been concluded, or when the bilateral agreement does not contain provisions for a certain situation.

55. According to article 510 of the Criminal Procedure Code the preconditions for extradition are the following: the persons whose extradition is requested cannot be citizens of the Republic of Macedonia, in accordance with article 4 of the Constitution, according to which a subject of the Republic of Macedonia may neither be deprived of citizenship, nor expelled or extradited to another State.

56. The crime for which extradition is requested cannot have been perpetrated on the territory of the Republic of Macedonia, against it or against its citizens, consistent with article 116 of the Criminal Code, according to which criminal legislation is applicable for everyone who commits a crime on the territory of the Republic of Macedonia. This also applies if the crime is committed on a domestic ship, regardless where the ship is at the time the crime has been committed, or if the crime has been committed on a domestic civil aircraft during flight or on a domestic military aircraft, regardless where the aircraft is at the time the crime has been committed.

57. The crime for which extradition is requested has to be a crime both according to domestic law and according to the law of the country in which the crime has been committed.

58. According to domestic law criminal prosecution must not be barred by statute or the execution of punishment barred by statute before the foreigner is detained or examined as an accused.

59. The foreigner whose extradition is requested must not have been convicted before a domestic court for the same crime or for the same crime by the domestic court and be released with a legally valid decision, or have against him a criminal procedure which cannot be interrupted. The prosecution must not be rejected with a legally valid decision. The same crime procedure must not be instituted in the Republic of Macedonia or against it or any citizen of the Republic of Macedonia, if a guarantee is not issued for the realization of the legal property rights request of the damaged person.

60. The identity of the person whose extradition is requested must be established, and there has to be sufficient evidence for a suspicion that the foreigner whose extradition is requested committed a certain crime or that there is a legally valid verdict.

61. The procedure for extradition of accused or convicted foreign subjects is duly instituted upon the request by a foreign State. The extradition request is filed through diplomatic channels. The investigative judge, after hearing the prosecution and the defence, will submit the hearing records and his opinion to the Court Chamber. If the Court Chamber does not establish that the preconditions for extradition have been fulfilled, then a decision denying the request for extradition is adopted. The court submits this decision ex officio to the Supreme Court of the Republic of Macedonia which, after hearing the Public Prosecutor, will confirm, abolish or amend the decision.

62. If, upon appeal, the court establishes that the legal conditions for extradition have been fulfilled, or if no appeal has been lodged against the first-instance court extradition decision, the case is referred to the Ministry of Justice, which will then decide upon the extradition (article 517 of the Criminal Procedure Code).

63. The Minister of Justice adopts a decision allowing or not allowing the extradition. The Minister of Justice may adopt a decision for delay of the extradition on the grounds that a criminal procedure against the foreign

subject for whom the extradition is requested is under way in a domestic court, or on the grounds that the foreign subject is serving a prison sentence in the Republic of Macedonia.

64. The Minister of Justice will not allow the extradition of a foreign subject who enjoys the right to asylum in the Republic of Macedonia or if it is a matter of a political or military criminal offence (article 518 of the Criminal Procedure Code).

Article 4

65. The Republic of Macedonia, by incriminating all forms of torture, has fully incorporated article 4 of the Convention in its domestic legislation. Namely, in article 142 of the Criminal Code of the Republic of Macedonia it is prescribed that "an official who, while performing his duty, uses force, threat or some other unallowed facility or unallowed means (a qualification that has the analogous meaning to the concept of 'all acts of torture'), with the intention of extorting a confession or some other statement from the accused, the witness, the expert witness or from other person shall be punished with imprisonment of three months to five years". Paragraph 2 of the same article contains the qualified forms of the above criminal offence according to which "if the extortion of a confession or a statement has been followed by severe violence or if, because of the extorted confession or statement, especially severe circumstances set in for the accused in the criminal procedure, the offender will be punished with imprisonment of at least one year".

66. In addition to this criminal offence, the Criminal Code contains the following crimes: murder (art. 123); bodily injury (art. 130); grave bodily injury (art. 131); coercion (art. 139); kidnapping (art. 141); mistreatment in performing a duty (art. 143); endangering security (art. 144); rape (art. 186); intercourse with a helpless person (art. 187); intercourse with a child (art. 188); neglect and mistreatment of a juvenile (art. 201); extortion (art. 258); blackmail (art. 259); mistreatment of a subordinate or a youth (art. 335); coercion against a judiciary employee (art. 375), and acts of violence (art. 386).

67. The general provisions of the Criminal Code of the Republic of Macedonia also envisage compulsory criminal prosecution for complicity, joint perpetration and assistance in committing the basic criminal offence of torture. Any attempt to commit this criminal offence is also punishable.

Article 5

68. In the Republic of Macedonia criminal liability of perpetrators of criminal offences is determined through a combined application of the territorial and the personal principle. In accordance with this provision of the legislator, the criminal liability of potential perpetrators of criminal offences - the major elements of which are acts of torture - are fully regulated by the provisions contained in article 116 of the Criminal Code of the Republic of Macedonia: criminal legislation is applicable to everyone who commits a crime on the territory of the Republic of Macedonia; criminal legislation is also applicable to everyone who commits a crime on a domestic

ship, regardless where the ship is at the time the crime has been committed, and criminal legislation is applicable to everyone who commits a crime on a domestic civil aircraft during flights, or on a domestic military aircraft regardless where the aircraft is at the time the crime has been committed.

69. Articles 118 and 119 of the Criminal Code of the Republic of Macedonia define more precisely the scope of the above-cited general provisions: "criminal legislation is applicable to a citizen of the Republic of Macedonia also when he commits a crime abroad, if he is found on the territory of the Republic of Macedonia or is extradited". They also state that "criminal legislation is applicable also to a foreigner who commits a crime outside the territory of the Republic of Macedonia but the crime is directed against it or against its citizen, if he is found on the territory of the Republic of Macedonia or is extradited". Finally, "criminal legislation is also applicable to a foreigner who commits a crime abroad, against a foreign country or a foreigner, who according to that legislation may be sentenced to five years' imprisonment or to a more severe punishment, when he finds himself on the territory of the Republic of Macedonia, and when he is extradited to the foreign country. The court may not mandate in such a case a punishment more severe than the punishment that is prescribed by the law of the country in which the crime was committed."

Article 6

70. In the Republic of Macedonia, the human right to freedom is irrevocable. No person's freedom can be restricted except by a court decision or in cases and through procedures determined by law. This means practically that the obligation is equally applicable for all persons, both for nationals of the Republic of Macedonia and for foreign subjects.

71. These constitutional provisions are appropriately further elaborated and detailed in the relevant provisions of the Criminal Procedure Code.

72. Namely, the persons summoned, apprehended or detained shall immediately be informed of the reasons for the summons, apprehension or detention and of their rights. They shall not be forced to make a statement. A person has a right to an attorney in police and court procedure. Persons detained shall be brought before a court as soon as possible, within a maximum period of 24 hours from the moment of detention, and the legality of their detention shall there be decided upon without delay. Detention may last by a court decision, for maximum period of 90 days from the day of detention. Persons detained may, under conditions determined by law, be released from custody to conduct their defence (article 12 of the Constitution). In cases when a foreign subject is apprehended, in accordance with the Constitution of the Republic of Macedonia, it is necessary that the conditions for extradition are fulfilled (cited in the section elaborating the implementation of article 3 of the Convention). Then the investigative judge will order a warrant for the detention of the foreign subject, if the provisions set forth in article 184 of the Criminal Procedure Code are fulfilled. They are the following: if the person hides, or if his identity cannot be determined or if there are other circumstances emphasizing the danger of escape; if there is justified fear that he will destroy traces of the crime or if certain circumstances point out that he will impede the investigation by influencing the witnesses,

collaborators or perpetrators; if certain circumstances justify the fear that he will commit a crime again, he will complete the attempted crime or will threaten to commit crime, unless it becomes very clear from the extradition request itself that there are no grounds for approving extradition.

73. The decision regarding detention is delivered to the person to whom it refers at the moment of his being deprived of freedom, and at the most within 24 hours from the hour of his arrest. For the record, the hour of arrest and the hour of delivery of the decision must be noted. The detained may appeal the decision for detention within 24 hours from the time of delivery of the decision, but the appeal does not stop the execution of the decision. A Court Chamber composed of three judges is obligated to reach a decision on the appeal within 48 hours.

74. Without a court decision, authorized officers of the Ministry of Internal Affairs may deprive of freedom the person suspected of a crime prosecuted ex officio if there is danger of default and there are some reasons for pre-trial detention under article 184, paragraph 1, of this Code. They are obligated to bring such a person immediately before the competent investigative judge. During the apprehension the authorized officer will inform the investigative judge of the reasons and of the time of arrest. If not completed in writing, the investigative judge will include the information in the minutes.

75. As an exception, the authorized officers of the Ministry of Internal Affairs may detain the person if the person has been caught committing a crime or a person for whom there are reasonable suspicions that he has committed a crime prosecuted ex officio, and some of the reasons for detention contained in article 184 of the Criminal Procedure Code exist. This may be necessary for the certification of identity, checking alibis or if for other reasons certain data is necessary for the case against a person, only when there is a justified fear that the person will destroy traces of the crime.

76. The person deprived of freedom must be immediately informed in the language he understands of the reasons for his apprehension, detention or arrest and of any criminal charges against him, as well as of his rights, and he cannot be asked to give a statement. The person must also be advised of his right to silence and of his right to an attorney. Detention in such cases may last 24 hours at most.

77. When detention is mandated (in the sense of the above), the investigative judge, after the person's examination, will inform the Ministry of Foreign Affairs of the detention, through the Ministry of Justice. The Ministry of Foreign Affairs, through normal channels, informs the diplomatic-consular mission of the country that the detained person is from, of the detention of the person concerned.

78. The person suspected of committing a crime has the right to an attorney in the police and court proceedings, while an attorney ex officio may be appointed to him if the person himself does not appoint a counsel. In cases when the President of the Court is unable, the investigative judge will appoint counsel. The investigative judge will advise the foreign subject

that he may appoint counsel or that a counsel ex officio may be appointed for him, if it is a matter of a criminal offence for which defence is obligatory.

79. When the perpetrator of a criminal offence is a foreign subject such a person is afforded international criminal legal assistance upon the relevant request submitted through the Ministry of Foreign Affairs. The Ministry of Justice is responsible for adopting the final decision on affording such assistance.

80. In article 193 of the Criminal Procedure Code, it is further elaborated that during the pre-trial detention the personality and dignity of the accused must not be offended. Against the detained only the limitations must be applied necessary to prevent an escape and an agreement which would be harmful for successful conducting of the procedure. The detained person has the right to request to serve the detention in a separate room.

81. Representatives of diplomatic and consular missions in the Republic of Macedonia have the right, upon approval by the investigative judge who conducts the investigation, to visit and to have interviews without supervision with the detained national of their country. The request for the visit is filed with the Ministry of Justice, through the Ministry of Foreign Affairs (article 195 of the Criminal Procedure Code).

82. The investigative judge will release the foreign subject when the grounds for detention cease to exist, or if the extradition request has not been filed within the time period he has set, taking due account of the distance of the country requesting the extradition, and which period may not be longer than 90 days from the day of the foreign subject's detention. The foreign country is also informed of the set time limit.

83. When the prescribed request is filed within the provisional period, the investigative judge will establish the identity of the foreign subject and inform him immediately why and upon which evidence his extradition is requested. He will call upon the foreign subject to present arguments in his defence (article 513 of the Criminal Procedure Code).

Article 7

84. This provision of the Convention has been also fully implemented, through the relevant provisions of the Criminal Procedure Code. Namely, according to article 150 an investigation is initiated against a person upon request by the Public Prosecutor, when there is justified suspicion that the person has committed a crime. The decision for initiating an investigation is adopted by the investigative judge. These provisions apply both for citizens of the Republic of Macedonia and for foreign subjects for whom the conditions for extradition have not been fulfilled or when the request for extradition submitted by a foreign State has been rejected. Consequently, criminal charges are brought against the person for whom there are reasonable grounds to believe that he has committed the criminal offence of torture.

85. If detention is mandated for the accused person, then the relevant provisions of the Criminal Procedure Code that regulate the treatment of detained persons by authorized officers are applied.

86. The basic principle is that the personality and dignity of the detained person must not be offended and that only the limitations necessary for preventing an escape or an agreement that would be harmful for the successful conducting of the procedure are implemented. The status of the person during detention has been fully elaborated through several provisions of the Criminal Procedure Code, which prescribe the rights of detained persons. Detained persons have the right to 8 hours' continuous rest within 24 hours, and they are allowed to walk in fresh air at least 2 hours a day. These rights of detained persons are unconditional. Furthermore, detained persons have the right to be fed at their expense, to wear their own clothes and to use their own bed sheets and blankets, to provide books, newspapers, magazines at their expense and other things appropriate to their habits and needs, unless it is harmful for the successful conduct of the proceedings, which is a matter decided upon by the investigative organ.

87. Upon approval by the investigative judge who conducts the investigation and under his supervision, within the limits of the house rules of the institution, the detained may be visited by close relatives, and on his request by a doctor and other persons.

88. Certain visits may be prohibited if they are found to be harmful for the conduct of the procedure. In case of a disciplinary offence, the investigative judge, i.e., the Chairman of the Court Chamber, may prescribe a disciplinary penalty: limitation on the right to visits, which does not apply to the communication of the detained person with his counsel. An appeal to the Court Chamber is allowed against the disciplinary penalty.

89. The detained person may have correspondence with persons outside the prison with the knowledge and under the supervision of the investigating organ. This organ may prohibit sending and receiving letters and other parcels which are harmful for the conduct of the proceedings. Submitting applications, pleas and appeals may never be prohibited.

90. High officials of diplomatic and consular missions in the Republic of Macedonia, upon the approval by the investigating judge, have the right to visit and talk to the detained citizens of their country without supervision (for the further procedure see the comment on article 3 above).

Article 8

91. The following bilateral extradition agreements are in force in the Republic of Macedonia:

(a) with Albania: Convention on Extradition of 22 June 1926;

(b) with Algeria: Agreement on legal assistance in civil and criminal cases of 31 March 1982;

(c) with Austria: Extradition Agreement of 1 February 1982;

(d) with Belgium: Convention on Extradition and Legal Assistance in Criminal Cases of 4 June 1971;

(e) with Bulgaria: Agreement on Mutual Legal Assistance;

(f) with Czechoslovakia: Agreement on regulation of the legal relations in civil, family and criminal law cases of 20 January 1954 (this Agreement applies both for the Czech and Slovak Republic);

(g) with France: Convention on extradition of accused and convicted persons of 23 March 1970;

(h) with Greece: Convention on mutual legal relations of 18 June 1959;

(i) with the Netherlands: Agreement on Extradition of 28 February 1996;

(j) with Italy: Convention on extradition between the Kingdom of the Serbs, Croats and Slovenians and Italy of 6 April 1922;

(k) with Hungary: Agreement on Legal Affairs of 7 March 1968;

(l) with Mongolia: Agreement on assistance in civil, family and criminal law cases of 8 June 1981;

(m) with the Federal Republic of Germany: Agreement on Extradition of 26 November 1970;

(n) with Poland: Agreement on legal relations in civil and criminal law cases of 6 February 1960;

(o) with the United States of America: Convention on Extradition of 12 October 1901;

(p) with Spain: Agreement on legal assistance in criminal cases and on extradition of 8 July 1982;

(q) with Switzerland: Convention on Extradition of 17 November 1987;

(r) with Turkey: Convention on Extradition of 17 November 1973;

(s) with the United Kingdom: Convention on Extradition of 23 November 1900;

(t) Agreement between the Republic of Macedonia and the Republic of Croatia on mutual execution of court decisions in criminal cases of 26 May 1995;

(u) Agreement between the Republic of Macedonia and the Republic of Croatia on legal assistance in civil and criminal law cases of 26 May 1995;

(v) Convention between the Republic of Macedonia and the Republic of Slovenia on extradition, ratified on 6 February 1996, coming into force on 5 September 1997.

92. A new agreement on legal assistance in civil and criminal law cases between the Republic of Macedonia and Turkey has been ratified, but has still not come into force, while the agreements with Romania and Bulgaria are in the negotiation stage (second stage).

93. All agreements before 1991 have been taken over by way of succession to the former Yugoslav federation, in accordance with article 5 of the Constitutional Law for Implementation of the Constitution of the Republic of Macedonia of 1991.

94. The subsidiary application of the Criminal Procedure Code results from article 509, according to which the extradition of accused and convicted persons is executed and requested pursuant to the provisions of the said Code, if it has not been otherwise determined by an international agreement. As it results from this legal definition, extradition is executed and requested pursuant to the domestic law, if there is no other agreement. (The extradition procedure has been previously elaborated in detail in the part above explaining the implementation of article 3 of the Convention.)

Article 9

95. The most realistic and substantial implementation of the obligations contained in this article of the Convention is provided in the application of international legal assistance, which has been comprehensively elaborated and regulated in detail in the applicable Macedonian law.

96. The procedure for providing international legal assistance and for the implementation of international agreements in criminal law cases has been elaborated in the Criminal Procedure Code (arts. 502-509).

97. International criminal law assistance is provided according to the provisions contained in the Criminal Procedure Code, unless it has been otherwise determined by an international agreement (article 502 of the Criminal Procedure Code).

98. The applications of the domestic courts for judicial assistance in the criminal cases are delivered to foreign agencies through diplomatic channels. In the same manner, the applications of foreign agencies for judicial assistance are delivered to the domestic courts. Namely, the Ministry of Justice, upon the receipt of applications from the judicial organs and from other organs, and after examining the case prepares a letter which, together with the court records (if this is necessary) are directly forwarded to the competent Ministry of the concerned country or are forwarded through diplomatic channels of the Ministry of Foreign Affairs, depending on how this issue has been regulated in an international agreement. A reply for the concerned case is then received by the Ministry of Justice, which after it has examined the reply, forwards it to the competent court which has submitted the application.

99. In cases of international legal assistance, when it is a matter of a foreign application, after the case has been accepted it is examined by the Ministry of Justice and is then forwarded to the competent court under the jurisdiction of which the person to whom the application refers to lives.

It indicates whether it is a matter of handing over writs, examination of the person, or other activities (article 504, paragraph 1 of the Criminal Procedure Code). After the court's reply has been received, the Ministry of Justice states whether the procedures regarding the application from abroad have been undertaken (whether the application has been fulfilled) and when the application has not been fulfilled, the reasons for this are also stated. After this, the Ministry of Justice prepares an act returning the writs to the foreign organ, or it forwards a positive reply.

100. The Criminal Procedure Code does not contain provisions regarding the issue in which cases legal assistance in criminal law cases may be rejected. This issue has been regulated by international agreements in this field. The most common reasons for denying legal assistance are the following: endangering the sovereign rights or the security of the requested country; affording assistance would run contrary to the principle of the requested country's legislation; if it is a matter of a national of the requested country or a matter of an offence for which extradition is not allowed; or if legal assistance is requested for an offence which pursuant to the law of the requested country does not constitute a criminal offence, and other reasons.

Article 10

101. Information and education of police personnel as related to the prohibition of torture is part of the system of education and training of the police. The programme has been prepared in accordance with the applicable legislation of the Republic of Macedonia and the relevant international documents in this sphere, and is implemented at all levels of the police personnel education.

102. In the education of students at the police academy and at the secondary school for education of police personnel, special attention is paid to humane aspects of the treatment of citizens, to the respect of their dignity, then to investigative methods, combat skills, protection of the constitutional order, and observance of human rights. The contents of the said article of the Convention have been elaborated in several parts of the Educational Programme (an act which contains all relevant elements of the educational process for this profession), or more precisely in the part related to the police procedure methods, the methodology of criminal investigation, which on their part are in accordance with the Criminal Procedure Code and the Law on Internal Affairs.

103. There are continuous discussions at seminars on this issue, such as the two seminars held in the course of 1996, jointly organized by the Council of Europe and the Ministry of Internal Affairs. The first of these seminars was entitled "Protection of citizens' rights and freedoms in order to avoid abuse of official position and torture". The second was entitled "Human rights". At these seminars, special attention was paid to the procedure for deprivation of freedom, the duration of detention, coercive methods and devices and the respect for the personal dignity of the apprehended person.

104. After completing their education and being employed at some of the organizational units of the Ministry of Internal Affairs of the Republic of Macedonia, pursuant to the rules on expert training and further education of

the officers of the Ministry of Internal Affairs of the Republic of Macedonia, each year uniformed law enforcement officers sit for an exam. Before a commission of several members, their knowledge of the following is checked: the Constitution of the Republic of Macedonia, the Criminal Procedure Code, as well as the rules for performing public security duties. Unsatisfactory results in one such exam may be the basis on which the officer is demoted.

105. In addition to the said exam, the rules on expert training and further education of the officers of the Ministry of Internal Affairs also envisage organization of courses, seminars, study stays and further education of the officers.

106. Several-day seminars have been organized for newly employed policemen, then regional seminars for newly appointed commanding officers, as well as numerous other specialist courses, the basic aim of which is to educate the policemen in the field of computer science, criminology and criminological techniques.

107. The Ministry of Internal Affairs issues magazines in which very often there are articles on issues in this field. One such magazine is the periodical Bezbednost-Security in which eminent scientists, theoreticians and practitioners from across the country and from abroad publish articles, as well as the newspaper 92 which is of a purely informative character.

108. In connection with all amendments of laws and by-laws which have relevance and form the legal basis for the work of the officers of the Ministry of Internal Affairs of the Republic of Macedonia, the said Ministry issues instructions to all its regional units, in which the Ministry explains new amendments to legislation and their impact on in the practical implementation of the laws concerned.

109. When it is a matter of training security officers in penal and correctional institutions, as related to the prohibition of torture in the performance of duties in the field of security (in connection with matters related to the Ministry of Justice), each year and intermittently, the Ministry of Justice organizes courses in cooperation with the Training Centre (an education facility that trains staff for these types of professions). In this context, the Centre organizes seminars for the purpose of successful, efficient, lawful performance of the duties in the field of security. The Ministry of Justice carries out this activity in cooperation with the non-governmental Penal Association of the Republic of Macedonia.

110. In April 1998, in cooperation with the Council of Europe, a seminar is to be organized on the implementation of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. In 1998, the Ministry of Justice will organize a seminar on the realization and implementation of the treatment of convicted persons, at which there will be discussions on the preventive aspects of eliminating the eventual forms of torture on persons deprived of their freedom.

111. The Law on Internal Affairs contains provisions which precisely define the authority of police officers in accordance with the Constitution of the Republic of Macedonia, which prohibits any form of torture, inhuman or

humiliating treatment and punishment, underlining that the physical and moral integrity of the person are irrevocable. Forced labour is also prohibited (article 11 of the Constitution).

112. There are several concrete obligations in this field: authorized officers have the right to check the identity of citizens for the purpose of determining their identity, but personal identification documents may only be kept only for the time necessary for checking identity, and no longer than three hours (article 27 of the Law on Internal Affairs).

113. Authorized officers of the Ministry of Internal Affairs have the right to detain a person for the maximum period of 24 hours, if the person disturbs or endangers the public peace and order, and public peace and order cannot be attained in another manner, as well as in cases when the person has been delivered by a foreign security organ for the purpose of handing the concerned person to the competent organ (article 29 of the Law on Internal Affairs).

114. The authorized officer shall use firearms, if by using other coercive methods and devices the officer cannot protect the life of citizens; countervail an immediate attack endangering his life; countervail an attack on a facility that he is securing; prevent the escape of a citizen caught in the act of committing a criminal offence for which a prison sentence of at least five years has been prescribed, as well as prevent the escape of a person deprived of freedom, or prevent the escape of a person for whom an arrest warrant has been issued on the grounds of committing such a crime (article 35 of the Law on Internal Affairs).

115. Before applying any coercive methods and devices or before using firearms the authorized officer is obliged to warn the person against whom such a method is to be used in a loud voice, as well as to act with due diligence not to endanger the life of other persons.

116. If firearms have been used the report on usage of firearms is submitted to the competent commanding officer, who establishes a committee to examine and assess whether the use of firearms has been justified or not. The procedure and manner for usage of coercive methods and devices have been elaborately defined in the rules for usage of firearms, rubber truncheons and other coercive methods and devices by authorized officers of the State administration organs competent for internal affairs.

117. In connection with the obligation contained in article 10, paragraph 2, of the Convention, several by-laws which further elaborate this issue have been adopted: rules on expert training and further education of officers of the Ministry of Internal Affairs, rules on the performance of the duties of the public security service, rules on usage of firearms, rubber truncheons and other coercive methods and devices by authorized officers of the State administration organs competent for internal affairs, rules for performing guard duties (adopted by the Ministry of Justice).

118. According to the rules for usage of firearms, rubber truncheons and of other coercive methods and devices by authorized officers of State administration organs competent for internal affairs, the security officer, when escorting a person deprived of freedom, may tie up the person under the

written warrant of the director of the institution (if it is a matter of a convicted person), or by the Chairman of the Court Chamber (if it is a matter of a detained person). Without having received a written warrant, the security officer may tie up any person deprived of freedom, who resists when escorted, or any person attempting to escape, or who attacks the escorting officer or another person. Or when there is sufficient grounds to believe that there can be a case of self-inflicted injuries or suicide of the escorted person, then when escorting a person apprehended upon a warrant of arrest, and who has already attempted to escape from detention or from serving a sentence, as well as in other cases when there are sufficient grounds to suspect that the escorted person will attempt to escape.

119. The security officer may tie up the person deprived of freedom who, at the institution, is giving resistance of the type that cannot be subdued by other means, or when this is the only way of securing order and discipline. When a person is tied, the security officer is obligated to report to the director of the institution, and if this occurs after regular working hours, he is obliged to report to the officer on duty.

120 The person will be untied when the reasons for which the person has been tied cease to exist. According to the rules, this measure is implemented by binding the hands with handcuffs in a manner in which no serious physical injuries are inflicted upon the person being tied. As an exception, the legs can be tied when the situation warrants this. Tying of other types (putting in chains, or tying a person onto a pole within the institution's premises) is prohibited.

121. The security officer may temporarily isolate and place in a separate room a person deprived of freedom, who due to his conduct poses a serious threat to the security of the security personnel and of other personnel, and must immediately inform the director of the institution or the officer on duty, if this occurs after regular working hours.

122. The security officer may use a rubber truncheon and physical force to overcome active or passive resistance of the person deprived of freedom in cases when this is necessary to prevent the person's escape, physical assault on security and other personnel, or to prevent the person from inflicting injuries on another person, self-inflicted injuries and material damage or an assault on the facility secured by the officer. This is only done when it is necessary to subdue the physical resistance of the person deprived of freedom.

123. The rules contain definitions of the terms "active and passive resistance". Thus, active resistance is when the person deprived of freedom resists by using arms, objects and other devices or by physical force (the person tries to free himself, fights, pushes, hides behind different objects, etc.) and thus prevents the guard from performing his duties. Passive resistance is when the person deprived of freedom does not answer the call or does not fulfil the legal orders of the guard by putting himself in a certain position (lying on the ground, kneeling, grabbing onto an object, standing still and not walking) which prevents the guard from performing his duties.

124. As a rule, the rubber truncheon is not used if the person passively resists, unless the passive resistance prevents the intervention of the guard,

then if there are no possibilities to subdue such a resistance, or if other more lenient methods have failed. The guard is obligated to stop the usage of the rubber truncheon, as soon as the immediate attack by the person deprived of freedom ceases. When using the rubber truncheon, the guard is obligated to avoid, as much as possible, hitting the person on the head and on other sensitive parts of the body.

125. Tying-up and the rubber truncheon must not be applied against persons deprived of their freedom who are evidently ill, old and exhausted or severely disabled, or against women who are visibly pregnant, regardless of the crime committed, unless such persons by using firearms or other dangerous devices pose an immediate threat to the life of the guard who escorts them or to the life of another person.

126. In connection with the treatment of convicted persons by the authorized officers, the Law on Execution of Sanctions (in articles 159 to 162) envisages that authorized officers at institutions, in the performance of their duties, in the treatment, or generally when communicating with convicted persons are obligated to conduct themselves paying due attention to convicted persons' personality. They must have a composed approach, and apply tolerance, tact, seriousness, strictness and fairness that will encourage the convicted persons' self-esteem and sense of responsibility. Officers should perform their duties honestly and impartially, without malice or ill intention, regardless of the position, sex, race, nationality, religion and political beliefs of the convicted persons.

127. In the course of performing their duties and after working hours the officers should serve as an example to the convicted persons through their appearance and conduct, always bearing in mind the significance of the functions and of the goals to be attained in the work with convicted persons, their personal attitude playing an important part in this regard.

128. The institution and the officers undertake the necessary measures for attaining and maintaining the high level of expertise and for enlarging the knowledge and the competence of the persons who are directly involved in the treatment of convicted persons. For the purpose of implementing the obligations of this article, the director of the directorate, upon the proposal of the institution, adopts a programme for continuous expert training of officers at such institutions. The Minister of Justice adopts a Code of Conduct for officers in the performance of their duties.

129. In the performance of their duties, guards may use chemical substances only in cases of serious disturbance of the peace and order by several persons deprived of freedom, if there is a mass fight or rebellion, or several persons disobey, or in cases when one or several persons have barricaded themselves in a closed room or are in any way preventing a guard from reaching them, as well as in cases when the use of firearms is allowed.

130. In order to restore peace and order, when seriously disturbed by several persons deprived of freedom, the guard may use water-cannons.

131. According to the rules, when there are possibilities and conditions for use of several coercive methods and devices, the coercive method will be used

which has the fewest consequences for the person against whom it is applied, if the use of such a method will secure the performance of the official duty.

132. A report is made on the use of coercive methods and devices, which contains description of the grounds upon which the coercive method has been used. The report is submitted to the Ministry of Justice directorate for supervision of execution of sanctions, which assesses the justification for the use of coercive methods and devices. If the coercive methods and devices have been used in accordance with the law, there is no liability on the part of the officer that has used or ordered the coercive methods and devices. However, if it is determined that in the usage of coercive methods and devices there has been overstepping by authorities, disciplinary proceedings are undertaken against the officer concerned.

133. Regarding the disciplinary liability of security officers and prison staff in general, the Law on Execution of Sanctions points to the general provisions governing employment relations, i.e., to the Employment Relations Act and to the State Administration Act (arts. 205-212), which prescribe disciplinary liability for the officer for violation of the employment obligations and for other violations of working discipline, when such violations have occurred by a fault of the person concerned. This is especially so if such a person does not perform the tasks and duties entrusted to him conscientiously and in an orderly manner, or if the person does not observe the laws and other regulations, as well as the rules of conduct during working hours or the rules related to the work. In this context, the violation of the rules on usage of coercive methods and devices implies disciplinary liability of the security officer. The director of the institution will prescribe the measures for violation of employment obligations. The director establishes a disciplinary committee to undertake disciplinary proceedings. After the disciplinary proceedings, the director of the institution will adopt a decision in accordance with the Employment Relations Act, while an appeal against the measure for the disciplinary offence, may be lodged to the second-instance disciplinary committee of the Government of the Republic of Macedonia. The appeal is to be lodged within 15 days from the day the decision has been received. If the person is not satisfied with the decision of the second-instance Committee, he has the right to institute a court proceeding by lodging an application for administrative dispute before the Supreme Court of the Republic of Macedonia, thus such persons are granted judicial protection of their rights. If the activities of the security officer contain elements of a criminal offence, then criminal proceedings are instituted against him.

134. When it is a matter of persons deprived of their freedom who are serving their prison sentences (article 184 of the Law on Execution of Sanctions), coercive methods and devices may be applied against such persons only to the extent necessary to prevent the escape from the institution or escape while being escorted, physical assault, inflicting an injury, self-inflicted injuries, causing material damage or to subdue the resistance of convicted persons, under the legal order of the authorized person. The directorate is informed, through a report on each use of coercive methods and devices, which then assesses the justification of the use of coercive methods and devices (article 186 of the Law on Execution of Sanctions).

135. Coercive methods and devices, which may be used pursuant to the Law on Execution of Sanctions (separation, tying, rubber truncheon, water-cannons, chemical substances and firearms) are to be used by taking due account not to endanger the life of other persons.

136. Separation means placing a person deprived of freedom in a separate room, when his conduct poses a serious threat for security.

137. Tying is carried out by fastening the hands (in front of the person) by handcuffs in a manner that no serious physical injuries are inflicted upon the person being tied. Other ways of tying are prohibited.

138. The rubber truncheon is used to subdue active or passive resistance of the person deprived of freedom when this is necessary to prevent the person's escape, physical assault, self-inflicted injuries, or material damage. Use of the rubber truncheon is hitting in defence and ceases immediately when the attack or resistance of the person against whom it is used, ceases. It is prohibited to use the rubber truncheon against obviously ill, old or exhausted persons, or against severely disabled persons or visibly pregnant women.

139. As a rule, chemical substances are used when there are cases of severe disturbance of the peace and order caused by several persons and when persons deprived of freedom have barricaded themselves in a closed room. Water-cannons may be used on the same grounds.

140. Firearms are used as the last coercive method for the protection of human life, to countervail immediate attack which endangers life; to countervail an attack on the facility that is being secured, and to prevent the escape of a convicted person from a maximum-security institution. As a rule, firearms are used only in cases when the use of other coercive methods and devices does not secure the performance of the duties.

141. A report is made on each case of use of coercive methods and devices, which contains information about the person against whom coercive methods and devices were used and on the grounds for the use. The report is then submitted to the Ministry of Justice directorate for execution of sanctions, which assesses the justification of the use of the coercive methods and devices.

142. If coercive methods and devices have been legally used, then there is no liability on the part of the officer who has used them or ordered their use. However, if it is established that the officer has overstepped the legal authorities in the use of the coercive methods and devices, disciplinary proceedings are instituted against the officer concerned.

Article 11

143. In the Republic of Macedonia, three types of monitoring are being implemented in connection with rules, instructions, methods and practices of interrogation and the provisions related to the custody and treatment of detained or convicted persons on the territory under its jurisdiction, for the purpose of preventing any case of torture. These are mentioned in the section

detailing the implementation of article 2 of the Convention: expert supervision of the execution of sanctions, judicial review of the treatment of convicted persons and of the exercise of their rights and obligations. (In connection with the State commission for supervision of penal and correctional institutions, see the comment on article 2 above.)

144. Authorized officers in the regional units of the Ministry of Internal Affairs, in addition to receiving instructions from the Ministry, are also being continuously supervised and monitored by the Ministry in connection with the implementation of laws and by-laws. The competent Ministry's officials make field inspections at the regional units, inspect the records of closed cases, and supervise the conduct of proceedings for concrete cases.

145. All violations of the rules prescribed in the instructions for use of firearms, rubber truncheons and of other coercive methods and devices by authorized officials of the State administration organs for internal affairs, or of the rules for performance of the duties of the public security office, the Criminal Procedure Code and the Constitution of the Republic of Macedonia, are sanctioned depending on the character of the violation, whether it is a disciplinary or a criminal one. The Ministry of Internal Affairs keeps separate records on all cases when physical force has been used.

146. Thus, for example, in 1993, there was a total number of 198 cases of use of physical force, in 10 of which there was no justification for the use of the physical force, and measures were undertaken against 6 employees. In two of these, criminal proceedings were instituted, while four of them were disciplinary offences.

147. In 1994, there was a total of 221 cases of use of physical force, in 5 of which there was unjustified use of physical force. Six persons were punished (four were criminally liable, while two were liable for disciplinary offences). In 1995, physical force was used in 336 cases, disciplinary proceedings being undertaken in connection with 8 cases of unjustified use of physical force.

148. In 1996, physical force was used in 172 cases, in 5 of which the use of physical force was unjustified. Three employees were sentenced to disciplinary measures. In 1997, in the first six months, out of a total of 71 cases of use of physical force, there was unjustified use of physical force in 1 case and the employee was sentenced to a disciplinary measure.

149. From the above information, it is evident that the number of cases of unjustified use of physical force by authorized officers is decreasing year by year, which could be considered a result of the organization of lectures, courses and educational seminars, all aimed at broadening knowledge of domestic legislation, but also of international acts and experiences in the field of human rights.

150. The total number of cases of use of coercive methods and devices by officers of the Ministry of Internal Affairs in the period from 1993 to 30 June 1997 was 1,009, against 4,813 persons, for various reasons.

Of this total, in 19 cases firearms were used; in 519 cases rubber truncheons were used; in 461 physical force was used, and in 10 cases chemical substances were used.

151. For all established cases of overstepping the authorities by use of coercive methods and devices in this period (a total of 31), proceedings for determining liability were instituted. After the proceedings 12 police officers were sentenced for disciplinary offenses, while criminal proceedings were instituted against 6 others.

152. A review of persons against whom firearms and other coercive methods and devices were used in the penal and correctional institutions of the Republic of Macedonia in the period from 1992 to 1997 reveals the following. The number of persons against whom firearms were used was one (1) in 1992 and none from 1993 to 1997. The number of persons against whom coercive methods and devices were used from 1992 to 1997 totalled 15: none in 1992, none in 1993, four incidents in 1994, 1995 and 1997, and three in 1996.

Article 12

153. The relevant provisions of the Criminal Procedure Code provide for full implementation of article 12 of the Convention. Specifically, in article 1 of this Code it is stated that the Code establishes rules which ensure that an innocent person is not convicted and the guilty person is given a criminal sanction under conditions prescribed in the same Code. Furthermore, in article 4 it is stated that any person charged with a criminal offence shall have the right to a fair and public hearing, within a reasonable time and before a competent, independent and impartial tribunal, established by law.

154. The accused person exercises this right through the following minimum rights: the right to be informed immediately and in detail, in the language which he understands, of the charges brought against him, and the evidence used against him, and the right to have adequate time and facilities to prepare his defence, and to communicate with a counsel of his choosing.

155. The accused also has the right to be tried, to defend himself in person or through legal assistance of his own choosing and to have legal assistance assigned to him, in any case where the interest of justice so requires, and without cost to him if he does not have sufficient means; the right not to be compelled to testify against himself or his relatives or to confess guilt, the right to be present during the examination of the witnesses and to be able to ask questions himself.

156. The investigation (the independence of which is imposed as an obligation in article 12 of the Convention) is part of the proceedings before the investigative judge in the criminal procedure law of the Republic of Macedonia. All actions in the investigative procedure, which due to their nature are part of the competencies of another State organ (the Ministry of Internal Affairs and specialized expert witness institution) are undertaken exclusively under the order of the investigative judge.

Article 13

157. The provisions contained in article 50 of the Constitution envisage that every citizen may invoke the protection of freedoms and rights determined by the Constitution before the regular courts, as well as before the Constitutional Court of the Republic of Macedonia, through a procedure based upon the principles of priority and urgency. Consequently, victims of torture and of other forms of inhuman and degrading treatment and punishment (as it is the case with all other rights guaranteed in the Constitution) may bring about the protection of their rights in this manner.

158. In cases when torture and other inhuman or degrading treatment or punishment have been committed by an official, the protection may also be effected by applying to the National Ombudsman, which according to the Constitution is a State body that protects the constitutional and legal rights of citizens when violated by State administration organs or other organs and organizations carrying out public mandates. If the National Ombudsman establishes that the constitutional and legal rights of citizens have been violated, he may propose instituting disciplinary proceedings against the official, or submit a request to the Public Prosecutor for instituting criminal proceedings against that person.

159. The perpetration of an act of torture has been defined as a separate criminal offence (defined in the Criminal Code of the Republic of Macedonia), while the procedure for the establishment of the liability of perpetrators of acts of torture may be initiated through the usual mechanisms of criminal procedure law. Namely, according to the relevant provisions of the Criminal Procedure Code all persons may report a criminal offence which is prosecuted ex officio (the criminal offence of perpetrating an act of torture is prosecuted ex officio). State organs and institutions carrying public mandates are obligated to report criminal offences which are prosecuted ex officio of which they have been informed. If there are reasonable grounds to believe that a criminal offence has been perpetrated which is prosecuted ex officio, the Ministry of Internal Affairs is obligated to undertake the necessary measures for the detection of the perpetrator of the criminal offence, then to prevent the perpetrator or accomplice from escaping or from hiding, to detect and secure the traces of the criminal offence and objects that can be used as evidence, and to collect all information that could be of use for the successful conduct of the criminal proceedings.

160. Furthermore, the Law on Execution of Sanctions contains separate provisions related to the protection of the rights of convicted persons, through the application of legal remedies. Article 163 envisages the right of convicted persons to apply legal remedies, to submit applications and other petitions for the protection of their rights relating to their position and treatment at the institution, while the right to confidentiality is also guaranteed. Convicted persons have the right to submit an oral application to the director of the institution regarding a violation of a right or regarding an irregularity, while they also have the right of submitting a complaint in writing, within 15 days from the violation of the right. The director of the institution is obliged to examine the allegations in the application and to adopt a decision within 15 days. If the convicted person is not satisfied with the adopted decision or if the director does not adopt a decision within

the envisaged time, the convicted person has the right to appeal to the Directorate for Execution of Sanctions. The decision of the directorate is final and the concerned person has the right to judicial protection against it.

161. In cases when torture and other types of inhuman treatment contain elements of a criminal offence, the citizen may exercise his right to protection by filing criminal charges with the Public Prosecutor, while for offences for which institution of a private lawsuit has been envisaged, he can do so by instituting a private lawsuit before the court. In connection with criminal offences which are prosecuted ex officio, and in cases when the Public Prosecutor rejects the reported charges, the victim i.e., the damaged person, has the right to institute the prosecution as a subsidiary plaintiff.

162. Article 526 of the Criminal Procedure Code regulates the procedure for compensation of damages incurred due to unjustified conviction. It envisages the right to compensation for damage suffered due to an unjust conviction of the person against whom a legally valid criminal sanction has been pronounced. It also applies to someone who has been found guilty, and been freed from serving a sentence, and later, as a result of applying a legal remedy, the new proceeding has been cancelled. The person is then freed of the charges through a legally valid verdict, or the charges are dismissed.

163. The citizen who contends that authorized officers undertook measures which violate human rights and freedoms may refer to the Ministry of Internal Affairs through an oral or written application. After the necessary measures and actions have been undertaken for the examination of the allegations contained in the application, measures for instituting disciplinary or criminal proceedings against the perpetrator are undertaken. The person submitting the application is informed of the results of the application. The Ministry of Internal Affairs does not keep separate records of complaints received and applications from citizens, or non-governmental organizations, but it must reply to the person submitting the application, regardless of the merits or lack of merits of the application.

Article 14

164. The right to compensation envisaged in the Convention can be realized in the Republic of Macedonia. If as a result of the criminal offence committed, a person has suffered damages, he has the right to file a proposal with the court for execution of a property rights claim, and if he is directed to litigation, it will be decided upon in civil law proceedings according to the general provisions governing compensation of damages.

165. The compensation covers the whole amount of damages (material and non-material) suffered by the damaged person. In cases of death, bodily injury or damage to health, financial compensation is prescribed in the form of instalments covering the expenses for medical treatment, loss of revenue due to being incapacitated for work, compensation for lost or diminished possibilities for further promotion and so on.

166. Furthermore, the Law of Obligations envisages compensation for non-material damages. According to article 200 of the Law of Obligations,

the court, if it establishes that the circumstances of the case, and especially the level and duration of pain and fear warrant it, shall order just financial compensation for physical pain suffered, for psychological pain due to reduced capacities, disfiguration, violation of reputation, honour, freedom and rights of the person, death of an intimate and for fear suffered, regardless of whether there was compensation for material damage. In case of the death of a person or of an especially severe disability, the court may order fair compensation for the members of the person's immediate family (spouse, children, parents) for their mental suffering.

Article 15

167. In Macedonian criminal procedure law one of the basic principles is free assessment of the evidence by the judge. The principle of establishing the factual situation is dominant. Consequently, the confession to an offence by the suspect/accused is directly opposed to the spirit of these principles.

168. In court practice in the Republic of Macedonia, no case in the last six years has been registered in which the court judgement has been based upon a statement by the accused which is a consequence of the use of coercive methods and devices in the proceedings.

Article 16

169. The legal system of the Republic of Macedonia envisages protection from any type of inhuman or degrading punishment and treatment, which do not amount to acts of torture, as defined in article 1 of the Convention.

170. In the Republic of Macedonia corporal punishment and psychological mistreatment of students is prohibited by law (Law on Primary Education and Law on Secondary Education).

171. The Law on Health Protection prescribes the obligations of health-care workers. While providing medical assistance they must take due care of the health-care beneficiaries, to respect their dignity, observe medical ethics and respect the confidentiality of information.

172. In view of the fact that medical treatment may endanger the physical integrity of a person, article 50 of the Law on Health Protection envisages that: surgery and other interventions are undertaken only with written consent of the ill person, i.e., of the parent or custodian if it is a minor, or a person deprived of legal capacity. The principle of obtaining consent may be disregarded when the life of the ill person is in danger or when the person is in a condition in which he is unable to decide, and due to the urgency of the treatment it is not possible to obtain the consent of a member of the person's immediate family, or as regards minors or persons without the legal capacity, from the parent or from the custodian. In such a case, surgery may be undertaken without obtaining consent. This is a matter decided upon by at least two medical doctors who are specialists in that area of surgery.

173. The patient who is not satisfied with the health care provided or is not satisfied with the approach of the health-care worker concerned, may file an

application with the personnel organ of the health-care institution. It is obligated to examine the application within three days, or in urgent cases, immediately, and to forward a written notification to the patient on the facts it has established and on the measures it has undertaken. In a case where the patient is not satisfied with the measures undertaken, he has the right to file a request to the Ministry of Health for examination of the allegations in his application.

174. If during the treatment or after it there occur permanent consequences, i.e., disability, the patient or his family have the right to request an expert examination of the treatment that has been provided. According to article 55 of the Law, the health-care beneficiary has the right to request compensation for damages in accordance with the law of obligations, if there occur consequences from the mistakes or from improper medical treatment.

175. The Criminal Code envisages the possibility of prosecution for unscrupulous treatment of ill persons. Such an offence occurs if the doctor, in providing medical assistance, applies clearly inadequate means or treatment or if he does not apply the necessary hygienic measures or in general acts unscrupulously with the person, thus causing deterioration of the person's health condition. The law envisages a fine or three years' imprisonment as a sentence for such an act. The same sentence has been envisaged when the perpetrator of such a crime is a midwife, or other health-care worker. When the act has been committed out of negligence, the sentence envisaged is a fine or a prison sentence of up to one year.

176. In addition to this offence the law envisages another, that of not providing medical assistance in any of the following: not providing immediate medical assistance to a person whose life is in danger (the prescribed sentence for this offence is one year's imprisonment or a fine) or if the consequence of not providing medical assistance is the death of the person then the prescribed sentence is six months to five years' imprisonment. Another offence in this Code is quackery, which covers treatment or medical assistance given without the prescribed expert education (the prescribed sentence is one year's imprisonment and a fine). These three offences are firm guarantees against inhuman and humiliating treatment of the patient during the medical treatment or immediately after it.

Medical experiments

177. An important novelty is contained in article 20 of the Law on Execution of Sanctions, according to which convicted persons may not be subjected to medical or other types of experiments which violate their physical, psychological and moral integrity, as well as that the consent of the persons for their participation in the experiment does not exclude the liability of the person who has allowed the experiment.

178. In article 251 of the Criminal Procedure Code it is envisaged that an examination of the body of the accused is undertaken even if he does not agree if it is necessary for significant facts of the criminal proceedings to be certified. Examinations of the bodies of other persons may be undertaken contrary to their will only if it must be certified whether on their bodies

there is a particular trace or consequence of the crime. Medical treatment on the accused or the witness is not allowed, nor are drugs, if they would affect their statements.

179. The Law on Scientific and Research Work envisages that the basic principles in the performance of scientific research will be the principle of inviolability of human integrity and protection of the personality and dignity of the person, as well as observance of ethical principles. Elaborate provisions for biomedical research are contained in the Code of Medical Deontology adopted by the medical board of Macedonia. In this Code, it is prescribed that biomedical research extorted from humans is the most severe violation of the ethical principles of the medical profession. Strictly controlled procedures ensure that research using new methods on humans is allowed only if this is medically and biologically justified and if the necessary expert staff and technological equipment are available, on the basis of a previous review by a highly expert and scientific organ. Consent of the examined person or consent by his guardian or representative, is necessary.

180. According to article 77 of the Code, the person who wishes to submit to new methods or medical research should be informed about their characteristics, the expected success and the possible risks and dangers of the procedure. Furthermore, voluntary and non-extorted consent is necessary for the application of the new method or of the new type of treatment. The research is to be stopped at the request of the ill person or upon the assessment of the researcher.

181. As an exception, if the new type of treatment or medicine is long-term, the sole possibility for saving the ill person's life and such a person is not in a condition to make sound decisions, consent may be given by the ill person's legal representative.

182. It is not allowed to use new methods for the purpose of acquiring scientific data from mentally disordered persons, prisoners, or persons in a subordinate position to the person who performs the research (art. 78).

183. Furthermore, a live embryo or foetus must not be used as an object of experiment in the womb. Only therapeutic treatment is allowed, the purpose of which is to accelerate growth, for treatment, or for delivery (art. 79, para. 2).

184. It is prohibited to use the human embryo or foetus for commercial or industrial purposes. Taking tissue from a dead embryo or foetus may not be performed for financial compensation (art. 80).

185. The conditions for taking, exchange, transfer and transplantation of parts of the human body for the purposes of medical treatment is regulated by a separate law. According to article 210 of the Criminal Code, illicit transplantation of parts of the human body is a criminal offence.

186. The draft law for amendment of the Law on Health Protection, which is before the Assembly, contains detailed provisions for application of medical experiments on humans.

ANNEX

List of regulations used in the preparation of this report

Constitution of the Republic of Macedonia (Official Gazette of the Republic of Macedonia No. 52/91);

Criminal Code (Official Gazette of the Republic of Macedonia No. 37/96);

Criminal Procedure Code (Official Gazette of the Republic of Macedonia No. 15/97);

Law on Execution of Sanctions (Official Gazette of the Republic of Macedonia No. 3/97);

Law on Courts (Official Gazette of the Republic of Macedonia No. 36/96);

Law on the Public Prosecutor's Office (Official Gazette of the Republic of Macedonia No. 80/92, 19/93, 9/94, 9/96);

Law on the National Ombudsman (Official Gazette of the Republic of Macedonia No. 7/97);

Law on Internal Affairs (Official Gazette of the Republic of Macedonia No. 19/95);

Law on the Movement and Stay of Foreign Subjects (Official Gazette of the Republic of Macedonia No. 36/92, 66/92 and 26/93);

Law on Employment Relations (Official Gazette of the Republic of Macedonia No. 80/93);

Law on Defence (Official Gazette of the Republic of Macedonia No. 8/92);

Law on State Administration Organs (Official Gazette of the Republic of Macedonia No. 40/90 and 63/94);

Instruction for the use of firearms and coercive methods and devices by officers of the guard service at penal and correctional institutions (Official Gazette of the Republic of Macedonia No. 3/810);

Regulations on the manner of performance of the guard duties, armament and equipment of the guard service at penal and correctional institutions and at educational-correctional institutions (Official Gazette of the Republic of Macedonia No. 3/81);

Code of the Medical Deontology (Official Gazette of the Republic of Macedonia No. 24/95);

Rules of Procedure of the Constitutional Court of the Republic of Macedonia (Official Gazette of the Republic of Macedonia No. 70/92);

Instructions for use of firearms, rubber truncheons and other coercive methods and devices by authorized officers of the State administration organs competent for internal affairs (Official Gazette of the Republic of Macedonia No. 34/81);

Book of Rules for performance of the duties of the public security service (Official Gazette of the Republic of Macedonia No. 29/85);

Rules for expert training and further education of officers at the Ministry of Internal Affairs (Official Gazette of the Republic of Macedonia No. 44/74).